

**Senate Bill No. 940**

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Passed the Senate August 13, 2014

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*Secretary of the Senate*

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Passed the Assembly August 11, 2014

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 1913 of the Code of Civil Procedure, to add Section 70663 to the Government Code, and to amend Sections 1455, 1471, 1821, 1834, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1890, 2107, 2200, 2300, 2352, 2505, 2650, and 3800 of, to add Sections 1301.5 and 1851.1 to, and to add Chapter 8 (commencing with Section 1980) to Part 3 of Division 4 of, the Probate Code, relating to conservatorships.

## LEGISLATIVE COUNSEL'S DIGEST

SB 940, Jackson. California Conservatorship Jurisdiction Act.

The Guardianship-Conservatorship Law generally establishes the standards and procedures for the appointment and termination of an appointment for a guardian or conservator of a person, an estate, or both. The law specifically requires, before the appointment of either a guardian or conservator is effective, the prospective guardian or conservator to take an oath to perform these duties according to the law.

This bill would enact, operative January 1, 2016, except as specified, the California Conservatorship Jurisdiction Act which is intended to be a modified version of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. This bill would provide standards and procedures for establishing the proper jurisdiction for a proceeding to appoint a conservator of a person, an estate, or both. The bill would also establish conditions for the transfer of a conservatorship established within this state to a jurisdiction outside the state, and a transfer of a conservatorship into this state, and for the registration and recognition by this state of a conservatorship established by another state, a United States territory, a federally recognized Indian tribe, or other specified jurisdiction. This bill would establish rules relating to the appeals from orders made under the California Conservatorship Jurisdiction Act. This bill would authorize a \$30 charge for registering a conservatorship established outside this state to be deposited into the Trial Court Trust Fund.

This bill would authorize a court in a conservatorship proceeding to make specific requests of a court of another jurisdiction to take

certain actions relating to that proceeding, including, but not limited to, holding an evidentiary hearing or ordering a person to produce testimony, and would further authorize a court in this state to grant similar requests from a court of another jurisdiction. This bill would require the Judicial Council to develop court rules and forms to implement the provisions of this act on or before January 1, 2016.

This bill would modify, limit, and supersede specified portions of the federal Electronic Signatures in Global and National Commerce Act, as it relates to these provisions. This bill would also specify that the scope of the required oath obligates a guardian or conservator to comply with applicable laws, at all times, in any location within or without the state.

This bill would make conforming changes to related provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1913 of the Code of Civil Procedure is amended to read:

1913. (a) Subject to subdivision (b), the effect of a judicial record of a sister state is the same in this state as in the state where it was made, except that it can only be enforced in this state by an action or special proceeding.

(b) The authority of a guardian, conservator, or committee, or of a personal representative, does not extend beyond the jurisdiction of the government under which that person was invested with authority, except to the extent expressly authorized by Article 4 (commencing with Section 2011) of Chapter 8 of Part 3 of Division 4 of the Probate Code or another statute.

SEC. 2. Section 70663 is added to the Government Code, to read:

70663. The fee for registering a conservatorship under Article 4 (commencing with Section 2011) of Chapter 8 of Part 3 of Division 4 of the Probate Code is thirty dollars (\$30). The amounts collected shall be distributed to the Trial Court Trust Fund under Section 68085.1.

SEC. 3. Section 1301.5 is added to the Probate Code, to read:

1301.5. The following rules apply with respect to the California Conservatorship Jurisdiction Act (Chapter 8 (commencing with Section 1980) of Part 3 of Division 4):

(a) (1) An appeal may be taken from an order assessing expenses against a party under Section 1997 if the amount exceeds five thousand dollars (\$5,000).

(2) An order under Section 1997 assessing expenses of five thousand dollars (\$5,000) or less against a party may be reviewed on an appeal by that party after entry of a final judgment or an appealable order in the conservatorship proceeding. At the discretion of the court of appeal, that type of order may also be reviewed upon petition for an extraordinary writ.

(b) An appeal may be taken from an order under Section 2001 denying a petition to transfer a conservatorship to another state.

(c) An appeal may be taken from a final order under Section 2002 accepting a transfer and appointing a conservator in this state.

(d) Notwithstanding any other law, an appeal may not be taken from either of the following until the court enters a final order under Section 2002 accepting the proposed transfer and appointing a conservator in this state:

(1) An order under Section 2002 determining whether or how to conform a conservatorship to the law of this state.

(2) An order that is made pursuant to a court review under Sections 1851.1 and 2002.

SEC. 4. Section 1455 of the Probate Code is amended to read:

1455. Any petition for instructions or to grant a guardian or a conservator any power or authority under this division, which may be filed by a guardian or conservator, may also be filed by a person who petitions for the appointment of a guardian or conservator, including, but not limited to, a person who petitions under Section 2002 for transfer of conservatorship.

SEC. 5. Section 1471 of the Probate Code is amended to read:

1471. (a) If a conservatee, proposed conservatee, or person alleged to lack legal capacity is unable to retain legal counsel and requests the appointment of counsel to assist in the particular matter, whether or not that person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interest of that person in the following proceedings under this division:

(1) A proceeding to establish or transfer a conservatorship or to appoint a proposed conservator.

(2) A proceeding to terminate the conservatorship.

(3) A proceeding to remove the conservator.

(4) A proceeding for a court order affecting the legal capacity of the conservatee.

(5) A proceeding to obtain an order authorizing removal of a temporary conservatee from the temporary conservatee's place of residence.

(b) If a conservatee or proposed conservatee does not plan to retain legal counsel and has not requested the court to appoint legal counsel, whether or not that person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interests of that person in any proceeding listed in subdivision (a) if, based on information contained in the court investigator's report or obtained from any other source, the court determines that the appointment would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee or proposed conservatee.

(c) In any proceeding to establish a limited conservatorship, if the proposed limited conservatee has not retained legal counsel and does not plan to retain legal counsel, the court shall immediately appoint the public defender or private counsel to represent the proposed limited conservatee. The proposed limited conservatee shall pay the cost for that legal service if he or she is able. This subdivision applies irrespective of any medical or psychological inability to attend the hearing on the part of the proposed limited conservatee as allowed in Section 1825.

SEC. 6. Section 1821 of the Probate Code is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the name, address, and telephone number of the proposed conservator and the name, address, and telephone number of the proposed conservatee, and state the reasons why a conservatorship is necessary. Unless the petitioner or proposed conservator is a bank or other entity authorized to conduct the business of a trust company, the petitioner or proposed conservator shall also file supplemental information as to why the appointment of a conservator is required. The supplemental information to be submitted shall include a brief statement of facts addressed to each of the following categories:

(1) The inability of the proposed conservatee to properly provide for his or her needs for physical health, food, clothing, and shelter.

(2) The location of the proposed conservatee's residence and the ability of the proposed conservatee to live in the residence while under conservatorship.

(3) Alternatives to conservatorship considered by the petitioner or proposed conservator and reasons why those alternatives are not available.

(4) Health or social services provided to the proposed conservatee during the year preceding the filing of the petition, when the petitioner or proposed conservator has information as to those services.

(5) The inability of the proposed conservatee to substantially manage his or her own financial resources, or to resist fraud or undue influence.

The facts required to address the categories set forth in paragraphs (1) to (5), inclusive, shall be set forth by the petitioner or proposed conservator if he or she has knowledge of the facts or by the declarations or affidavits of other persons having knowledge of those facts.

If any of the categories set forth in paragraphs (1) to (5), inclusive, are not applicable to the proposed conservatorship, the petitioner or proposed conservator shall so indicate and state on the supplemental information form the reasons therefor.

The Judicial Council shall develop a supplemental information form for the information required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or organizations approved by the Judicial Council, who represent public conservators, court investigators, the State Bar, specialists with experience in performing assessments and coordinating community-based services, and legal services for the elderly and disabled.

The supplemental information form shall be separate and distinct from the form for the petition. The supplemental information shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this supplemental information or who have appeared in the proceedings, their attorneys, and the court. The court shall have discretion at any other time to release the supplemental information to other persons if it would serve the interests of the conservatee. The clerk of the

court shall make provision for limiting disclosure of the supplemental information exclusively to persons entitled thereto under this section.

(b) The petition shall set forth, so far as they are known to the petitioner or proposed conservator, the names and addresses of the spouse or domestic partner, and of the relatives of the proposed conservatee within the second degree. If no spouse or domestic partner of the proposed conservatee or relatives of the proposed conservatee within the second degree are known to the petitioner or proposed conservator, the petition shall set forth, so far as they are known to the petitioner or proposed conservator, the names and addresses of the following persons who, for the purposes of Section 1822, shall all be deemed to be relatives:

(1) A spouse or domestic partner of a predeceased parent of a proposed conservatee.

(2) The children of a predeceased spouse or domestic partner of a proposed conservatee.

(3) The siblings of the proposed conservatee's parents, if any, but if none, then the natural and adoptive children of the proposed conservatee's parents' siblings.

(4) The natural and adoptive children of the proposed conservatee's siblings.

(c) If the petitioner or proposed conservator is a professional fiduciary, as described in Section 2340, who is required to be licensed under the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code), the petition shall include the following:

(1) The petitioner's or proposed conservator's proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the proposed conservatee for services performed as a conservator. The petitioner's or proposed conservator's provision of a proposed hourly fee schedule or another statement of his or her proposed compensation, as required by this paragraph, shall not preclude a court from later reducing the petitioner's or proposed conservator's fees or other compensation.

(2) Unless a petition for appointment of a temporary conservator that contains the statements required by this paragraph is filed together with a petition for appointment of a conservator, both of the following:

(A) A statement of the petitioner's or proposed conservator's license information.

(B) A statement explaining who engaged the petitioner or proposed conservator or how the petitioner or proposed conservator was engaged to file the petition for appointment of a conservator or to agree to accept the appointment as conservator and what prior relationship the petitioner or proposed conservator had with the proposed conservatee or the proposed conservatee's family or friends.

(d) If the petition is filed by a person other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

(1) Either the efforts to find the proposed conservatee's relatives or why it was not feasible to contact any of them.

(2) Either the preferences of the proposed conservatee concerning the appointment of a conservator and the appointment of the proposed conservator or why it was not feasible to ascertain those preferences.

(e) If the petition is filed by a person other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor, or the agent of a creditor or debtor, of the proposed conservatee.

(f) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services and that fact is known to the petitioner or proposed conservator, the petition shall state that fact and name the institution.

(g) The petition shall state, so far as is known to the petitioner or proposed conservator, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed conservatee.

(h) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(i) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship,



and does not object to the proposed conservator or prefer that another person act as conservator.

(j) In the case of an allegedly developmentally disabled adult, the petition shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the requirements of this section, and conservatorships filed pursuant to Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code are exempt from providing the supplemental information required by this section, so long as the guidelines adopted by the State Department of Developmental Services for regional centers require the same information that is required pursuant to this section.

(k) The petition shall state, so far as is known to the petitioner, whether or not the proposed conservatee is a member of a federally recognized Indian tribe. If so, the petition shall state the name of the tribe, the state in which the tribe is located, whether the proposed conservatee resides on tribal land, and whether the proposed conservatee is known to own property on tribal land. For the purposes of this subdivision, "tribal land" means land that is, with respect to a specific Indian tribe and the members of that tribe, "Indian country" as defined in Section 1151 of Title 18 of the United States Code.

SEC. 7. Section 1834 of the Probate Code is amended to read:

1834. (a) Before letters are issued in a conservatorship that originates in this state or a conservatorship that is transferred to this state under Chapter 8 (commencing with Section 1980), the conservator (other than a trust company or a public conservator) shall file an acknowledgment of receipt of (1) a statement of duties and liabilities of the office of conservator, and (2) a copy of the conservatorship information required under Section 1835. The acknowledgment and the statement shall be in the form prescribed by the Judicial Council.

(b) The court may by local rules require the acknowledgment of receipt to include the conservator's birth date and driver's license number, if any, provided that the court ensures their confidentiality.

(c) The statement of duties and liabilities prescribed by the Judicial Council shall not supersede the law on which the statement is based.

SEC. 8. Section 1840 of the Probate Code is amended to read:

1840. Except as otherwise provided in this article, a conservator for an absentee (Section 1403) shall be appointed as provided in Article 3 (commencing with Section 1820) of this chapter or Article 3 (commencing with Section 2001) of Chapter 8.

SEC. 9. Section 1841 of the Probate Code is amended to read:

1841. In addition to the other required contents of the petition, if the proposed conservatee is an absentee:

(a) The petition, and any notice required by Section 1822 or 2002, or any other law, shall set forth the last known military rank or grade and the social security account number of the proposed conservatee.

(b) The petition shall state whether the absentee's spouse has commenced any action or proceeding against the absentee for judicial or legal separation, dissolution of marriage, annulment, or adjudication of nullity of their marriage.

SEC. 10. Section 1842 of the Probate Code is amended to read:

1842. In addition to the persons and entities to whom notice of hearing is required under Section 1822 or 2002, if the proposed conservatee is an absentee, a copy of the petition and notice of the time and place of the hearing shall be mailed at least 15 days before the hearing to the secretary concerned or to the head of the United States department or agency concerned, as the case may be. In such case, notice shall also be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation in the county in which the hearing will be held.

SEC. 11. Section 1843 of the Probate Code is amended to read:

1843. (a) No citation is required under Section 1823 to the proposed conservatee if the proposed conservatee is an absentee.

(b) No notice is required under Section 2002 to the proposed conservatee if the proposed conservatee is an absentee.

SEC. 12. Section 1844 of the Probate Code is amended to read:

1844. (a) In a proceeding to appoint a conservator for an absentee under Article 3 (commencing with Section 1820) of this

chapter or Article 3 (commencing with Section 2001) of Chapter 8, an official written report or record complying with Section 1283 of the Evidence Code that a proposed conservatee is an absentee shall be received as evidence of that fact and the court shall not determine the status of the proposed conservatee inconsistent with the status determined as shown by the written report or record.

(b) The inability of the proposed conservatee to attend the hearing is established by the official written report or record referred to in subdivision (a).

SEC. 13. Section 1845 of the Probate Code is amended to read:

1845. (a) Except as otherwise provided in this article, a conservator of the estate of a person who is missing and whose whereabouts is unknown shall be appointed as provided in Article 3 (commencing with Section 1820) of this chapter or Article 3 (commencing with Section 2001) of Chapter 8.

(b) This article does not apply where the proposed conservatee is an absentee as defined in Section 1403.

SEC. 14. Section 1846 of the Probate Code is amended to read:

1846. In addition to the other required contents of the petition, if the proposed conservatee is a person who is missing and whose whereabouts is unknown, the petition shall state all of the following:

(a) The proposed conservatee owns or is entitled to the possession of real or personal property located in this state. In a proceeding to transfer a conservatorship of a missing person to this state under Article 3 (commencing with Section 2001) of Chapter 8, this requirement is also satisfied if the petition states that the proposed conservatee owns or is entitled to the possession of personal property that is to be relocated to this state upon approval of the transfer.

(b) The time and circumstance of the person's disappearance and that the missing person has not been heard from by the persons most likely to hear (naming them and their relationship to the missing person) since the time of disappearance and that the whereabouts of the missing person is unknown to those persons and to the petitioner.

(c) The last known residence of the missing person.

(d) A description of any search or inquiry made concerning the whereabouts of the missing person.

(e) A description of the estate of the proposed conservatee which requires attention, supervision, and care.

SEC. 15. Section 1847 of the Probate Code is amended to read:

1847. In addition to the persons and entities to whom notice of hearing is required under Section 1822 or 2002, if the proposed conservatee is a person who is missing and whose whereabouts is unknown:

(a) A copy of the petition for appointment of a conservator and notice of the time and place of the hearing on the petition shall be mailed at least 15 days before the hearing to the proposed conservatee at the last known address of the proposed conservatee.

(b) Notice of the time and place of the hearing shall also be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation in the county in which the proposed conservatee was last known to reside if the proposed conservatee's last known address is in this state.

(c) Pursuant to Section 1202, the court may require that further or additional notice of the hearing be given.

SEC. 16. Section 1848 of the Probate Code is amended to read:

1848. (a) In a proceeding under Article 3 (commencing with Section 1820) to appoint a conservator of the estate of a person who is missing and whose whereabouts is unknown, the following acts are not required:

(1) Issuance of a citation to the proposed conservatee pursuant to Section 1823.

(2) Service of a citation and petition pursuant to Section 1824.

(3) Production of the proposed conservatee at the hearing pursuant to Section 1825.

(4) Performance of the duties of the court investigator pursuant to Section 1826.

(5) Performance of any other act that depends upon knowledge of the location of the proposed conservatee.

(b) In a proceeding to transfer a conservatorship of a missing person to this state under Article 3 (commencing with Section 2001) of Chapter 8, the following acts are not required:

(1) Notice to the proposed conservatee pursuant to Section 2002.

(2) Production of the proposed conservatee at the hearings pursuant to Section 2002.

(3) Performance of the duties of the court investigator pursuant to Section 1851.1.

(4) Performance of any other act that depends upon knowledge of the location of the proposed conservatee.

SEC. 17. Section 1849 of the Probate Code is amended to read:

1849. A conservator of the estate of a person who is missing and whose whereabouts is unknown may be appointed only if the court finds all of the following:

(a) The proposed conservatee owns or is entitled to the possession of real or personal property located in this state. In a proceeding to transfer a conservatorship of a missing person to this state under Article 3 (commencing with Section 2001) of Chapter 8, this requirement is also satisfied if the court finds that the proposed conservatee owns or is entitled to the possession of personal property that is to be relocated to this state upon approval of the transfer.

(b) The proposed conservatee remains missing and his or her whereabouts remains unknown.

(c) The estate of the proposed conservatee requires attention, supervision, and care.

SEC. 18. Section 1851.1 is added to the Probate Code, to read:

1851.1. (a) When a court issues an order provisionally granting a petition under Section 2002, the investigator appointed under Section 2002 shall promptly commence an investigation under this section.

(b) In conducting an investigation and preparing a report under this section, the court investigator shall do all of the following:

(1) Comply with the requirements of Section 1851.

(2) Conduct an interview of the conservator.

(3) Conduct an interview of the conservatee's spouse or registered domestic partner, if any.

(4) Inform the conservatee of the nature, purpose, and effect of the conservatorship.

(5) Inform the conservatee and all other persons entitled to notice under subdivision (b) of Section 2002 of the right to seek termination of the conservatorship.

(6) Determine whether the conservatee objects to the conservator or prefers another person to act as conservator.

(7) Inform the conservatee of the right to attend the hearing under subdivision (c).

(8) Determine whether it appears that the conservatee is unable to attend the hearing and, if able to attend, whether the conservatee is willing to attend the hearing.

(9) Inform the conservatee of the right to be represented by legal counsel if the conservatee so chooses, and to have legal counsel appointed by the court if the conservatee is unable to retain legal counsel.

(10) Determine whether the conservatee wishes to be represented by legal counsel and, if so, whether the conservatee has retained legal counsel and, if not, the name of an attorney the conservatee wishes to retain.

(11) If the conservatee has not retained legal counsel, determine whether the conservatee desires the court to appoint legal counsel.

(12) Determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee in any case where the conservatee does not plan to retain legal counsel and has not requested the appointment of legal counsel by the court.

(13) Consider each of the categories specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1821.

(14) Consider, to the extent practicable, whether the investigator believes the conservatee suffers from any of the mental function deficits listed in subdivision (a) of Section 811 that significantly impairs the conservatee's ability to understand and appreciate the consequences of the conservatee's actions in connection with any of the functions described in subdivision (a) or (b) of Section 1801 and identify the observations that support that belief.

(c) The court shall review the conservatorship as provided in Section 2002. The conservatee shall attend the hearing unless the conservatee's attendance is excused under Section 1825. The court may take appropriate action in response to the court investigator's report under this section.

(d) The court investigator's report under this section shall be confidential as provided in Section 1851.

(e) Except as provided in paragraph (2) of subdivision (a) of Section 1850, the court shall review the conservatorship again one year after the review conducted pursuant to subdivision (c), and annually thereafter, in the manner specified in Section 1850.

(f) The first time that the need for a conservatorship is challenged by any interested person or raised on the court's own

motion after a transfer under Section 2002, whether in a review pursuant to this section or in a petition to terminate the conservatorship under Chapter 3 (commencing with Section 1860), the court shall presume that there is no need for a conservatorship. This presumption is rebuttable, but can only be overcome by clear and convincing evidence. The court shall make an express finding on whether continuation of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.

(g) If a duty described in this section is the same as a duty imposed pursuant to the amendments to Sections 1826, 1850, 1851, 2250, 2253, and 2620 and the addition of Sections 2250.4 and 2250.6 enacted by Chapter 493 of the Statutes of 2006, and the addition of Section 1051 enacted by Chapter 492 of the Statutes of 2006, a superior court shall not be required to perform that duty until the Legislature makes an appropriation identified for this purpose.

SEC. 19. Section 1890 of the Probate Code is amended to read:

1890. (a) An order of the court under Section 1880 may be included in the order of appointment of the conservator if the order was requested in the petition for the appointment of the conservator or the transfer petition under Section 2002 or, except in the case of a limited conservator, may be made subsequently upon a petition made, noticed, and heard by the court in the manner provided in this article.

(b) In the case of a petition filed under this chapter requesting that the court make an order under this chapter or that the court modify or revoke an order made under this chapter, when the order applies to a limited conservatee, the order may only be made upon a petition made, noticed, and heard by the court in the manner provided by Article 3 (commencing with Section 1820) of Chapter 1.

(c) No court order under Section 1880, whether issued as part of an order granting the original petition for appointment of a conservator or issued subsequent thereto, may be granted unless supported by a declaration, filed at or before the hearing on the request, executed by a licensed physician, or a licensed psychologist within the scope of his or her licensure, and stating that the proposed conservatee or the conservatee, as the case may be, lacks the capacity to give an informed consent for any form of medical treatment and the reasons therefor. Nothing in this section

shall be construed to expand the scope of practice of psychologists as set forth in the Business and Professions Code.

SEC. 20. Chapter 8 (commencing with Section 1980) is added to Part 3 of Division 4 of the Probate Code, to read:

CHAPTER 8. INTERSTATE JURISDICTION, TRANSFER, AND  
RECOGNITION: CALIFORNIA CONSERVATORSHIP JURISDICTION ACT

Article 1. General Provisions

1980. (a) By enacting this chapter, it is the Legislature's intent to enact a modified version of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

(b) This chapter may be cited as the "California Conservatorship Jurisdiction Act."

1981. (a) (1) This chapter does not apply to a minor, regardless of whether the minor is or was married.

(2) This chapter does not apply to any proceeding in which a person is appointed to provide personal care or property administration for a minor, including, but not limited to, a guardianship under Part 2 (commencing with Section 1500).

(b) This chapter does not apply to any proceeding in which a person is involuntarily committed to a mental health facility or subjected to other involuntary mental health care, including, but not limited to, any of the following proceedings or any proceeding that is similar in substance:

(1) A proceeding under Sections 1026 to 1027, inclusive, of the Penal Code.

(2) A proceeding under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code.

(3) A proceeding under Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(4) A proceeding under Article 6 (commencing with Section 1800) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code.

(5) A proceeding under Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.



(6) A proceeding under Article 3 (commencing with Section 3100) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(7) A proceeding under Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, which is also known as the Lanterman-Petris-Short Act.

(8) A proceeding under Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(9) A proceeding under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(c) Article 3 (commencing with Section 2001) does not apply to an adult with a developmental disability, or to any proceeding in which a person is appointed to provide personal care or property administration for an adult with a developmental disability, including, but not limited to, the following types of proceedings:

(1) A proceeding under Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(2) A limited conservatorship under subdivision (d) of Section 1801.

(3) A proceeding under Section 4825 of the Welfare and Institutions Code.

(4) A proceeding under Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(d) Application of this chapter to a conservatee with dementia is subject to the express limitations of Sections 2002 and 2016, as well as the other requirements of this chapter.

1982. In this chapter:

(a) “Adult” means an individual who has attained 18 years of age.

(b) “Conservatee” means an adult for whom a conservator of the estate, a conservator of the person, or a conservator of the person and estate has been appointed.

(c) “Conservator” means a person appointed by the court to serve as a conservator of the estate, a conservator of the person, or a conservator of the person and estate.

(d) “Conservator of the estate” means a person appointed by the court to administer the property of an adult, including, but not limited to, a person appointed for that purpose under subdivision (b) of Section 1801.

(e) “Conservator of the person” means a person appointed by the court to make decisions regarding the person of an adult, including, but not limited to, a person appointed for that purpose under subdivision (a) of Section 1801.

(f) “Conservator of the person and estate” means a person appointed by the court to make decisions regarding the person of an adult and to administer the property of that adult, including, but not limited to, a person appointed for those purposes under subdivision (c) of Section 1801.

(g) “Conservatorship order” means an order appointing a conservator of the estate, a conservator of the person, or a conservator of the person and estate in a conservatorship proceeding.

(h) “Conservatorship proceeding” means a judicial proceeding in which an order for the appointment of a conservator of the estate, a conservator of the person, or a conservator of the person and estate is sought or has been issued.

(i) “Party” means the conservatee, proposed conservatee, petitioner, conservator, proposed conservator, or any other person allowed by the court to participate in a conservatorship proceeding.

(j) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(k) “Proposed conservatee” means an adult for whom a conservatorship order is sought.

(l) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(m) Notwithstanding Section 74, “state” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

1983. A court of this state may treat a foreign country as if it were a state for the purpose of applying this article and Articles 2, 3, and 5.

1984. (a) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter. The court may allow the parties to participate in the communication. Except as otherwise provided in subdivision (b), the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

1985. (a) In a conservatorship proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

(1) Hold an evidentiary hearing.

(2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state.

(3) Order that an evaluation or assessment be made of the proposed conservatee.

(4) Order any appropriate investigation of a person involved in a proceeding.

(5) Forward to the court of this state a certified copy of the transcript or other record of a hearing under paragraph (1) or any other proceeding, any evidence otherwise produced under paragraph (2), and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4).

(6) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the conservatee or the proposed conservatee.

(7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in Section 160.103 of Title 45 of the Code of Federal Regulations.

(b) If a court of another state in which a conservatorship proceeding is pending requests assistance of the kind provided in subdivision (a), a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

(c) Travel and other necessary and reasonable expenses incurred under subdivisions (a) and (b) may be assessed against the parties according to the law of this state.

1986. (a) In a conservatorship proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a conservatorship proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

## Article 2. Jurisdiction

1991. (a) In this article:

(1) “Emergency” means a circumstance that likely will result in substantial harm to a proposed conservatee’s health, safety, or welfare, and for which the appointment of a conservator of the person is necessary because no other person has authority and is willing to act on behalf of the proposed conservatee.

(2) “Home state” means the state in which the proposed conservatee was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a conservatorship order, or, if none, the state in which the proposed conservatee was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

(3) “Significant-connection state” means a state, other than the home state, with which a proposed conservatee has a significant connection other than mere physical presence and in which substantial evidence concerning the proposed conservatee is available.

(b) In determining under Section 1993 and subdivision (e) of Section 2001 whether a proposed conservatee has a significant

connection with a particular state, the court shall consider all of the following:

- (1) The location of the proposed conservatee's family and other persons required to be notified of the conservatorship proceeding.
- (2) The length of time the proposed conservatee at any time was physically present in the state and the duration of any absence.
- (3) The location of the proposed conservatee's property.
- (4) The extent to which the proposed conservatee has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

1992. For a conservatorship proceeding governed by this article, this article provides the exclusive basis for determining whether the courts of this state, as opposed to the courts of another state, have jurisdiction to appoint a conservator of the person, a conservator of the estate, or a conservator of the person and estate.

1993. (a) A court of this state has jurisdiction to appoint a conservator for a proposed conservatee if this state is the proposed conservatee's home state.

(b) A court of this state has jurisdiction to appoint a conservator for a proposed conservatee if, on the date the petition is filed, this state is a significant-connection state and the respondent does not have a home state.

(c) A court of this state has jurisdiction to appoint a conservator for a proposed conservatee if, on the date the petition is filed, this state is a significant-connection state and a court of the proposed conservatee's home state has expressly declined to exercise jurisdiction because this state is a more appropriate forum.

(d) A court of this state has jurisdiction to appoint a conservator for a proposed conservatee if both of the following conditions are satisfied:

(1) On the date the petition is filed, this state is a significant-connection state, the proposed conservatee has a home state, and a conservatorship petition is not pending in a court of the home state or another significant-connection state.

(2) Before the court makes the appointment, no conservatorship petition is filed in the proposed conservatee's home state, no objection to the court's jurisdiction is filed by a person required to be notified of the proceeding, and the court in this state

concludes that it is an appropriate forum under the factors set forth in Section 1996.

(e) A court of this state has jurisdiction to appoint a conservator for a proposed conservatee if all of the following conditions are satisfied:

(1) This state does not have jurisdiction under subdivision (a), (b), (c), or (d).

(2) The proposed conservatee's home state and all significant-connection states have expressly declined to exercise jurisdiction because this state is the more appropriate forum.

(3) Jurisdiction in this state is consistent with the constitutions of this state and the United States.

(f) A court of this state has jurisdiction to appoint a conservator for a proposed conservatee if the requirements for special jurisdiction under Section 1994 are met.

1994. (a) A court of this state lacking jurisdiction under subdivisions (a) to (e), inclusive, of Section 1993 has special jurisdiction to do any of the following:

(1) Appoint a temporary conservator of the person in an emergency for a proposed conservatee who is physically present in this state. In making an appointment under this paragraph, a court shall follow the procedures specified in Chapter 3 (commencing with Section 2250) of Part 4. The temporary conservatorship shall terminate in accordance with Section 2257.

(2) Appoint a conservator of the estate with respect to real or tangible personal property located in this state.

(3) Appoint a conservator of the person, conservator of the estate, or conservator of the person and estate for a proposed conservatee for whom a provisional order to transfer a proceeding from another state has been issued under procedures similar to Section 2001. In making an appointment under this paragraph, a court shall follow the procedures specified in Chapter 3 (commencing with Section 2250) of Part 4. The temporary conservatorship shall terminate in accordance with Section 2257.

(b) If a petition for the appointment of a conservator of the person in an emergency is brought in this state and this state was not the home state of the proposed conservatee on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is

requested before or after the emergency appointment of a temporary conservator of the person.

1995. Except as otherwise provided in Section 1994, a court that has appointed a conservator consistent with this chapter has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment expires by its own terms.

1996. (a) (1) A court of this state having jurisdiction under Section 1993 to appoint a conservator may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(2) The issue of appropriate forum may be raised upon petition of any interested person, the court's own motion, or the request of another court.

(3) The petitioner, or, if there is no petitioner, the court in this state, shall give notice of the petition, motion, or request to the same persons and in the same manner as for a petition for a conservatorship under Section 1801. The notice shall state the basis for the petition, motion, or request, and shall inform the recipients of the date, time, and place of the hearing under paragraph (4). The notice shall also advise the recipients that they have a right to object to the petition, motion, or request. The notice to the potential conservatee shall inform the potential conservatee of the right to be represented by legal counsel if the potential conservatee so chooses, and to have legal counsel appointed by the court if the potential conservatee is unable to retain legal counsel.

(4) The court shall hold a hearing on the petition, motion, or request.

(b) If a court of this state declines to exercise its jurisdiction under subdivision (a), it shall grant the petition, motion, or request, and either dismiss or stay any conservatorship proceeding pending in this state. The court's order shall be based on evidence presented to the court. The order shall be in a record and shall expressly state that the court declines to exercise its jurisdiction because a court of another state is a more appropriate forum. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a conservator of the person, conservator of the estate, or conservator of the person and estate be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including all of the following:

- (1) Any expressed preference of the proposed conservatee.
- (2) Whether abuse, neglect, or exploitation of the proposed conservatee has occurred or is likely to occur and which state could best protect the proposed conservatee from the abuse, neglect, or exploitation.
- (3) The length of time the proposed conservatee was physically present in or was a legal resident of this or another state.
- (4) The location of the proposed conservatee's family, friends, and other persons required to be notified of the conservatorship proceeding.
- (5) The distance of the proposed conservatee from the court in each state.
- (6) The financial circumstances of the estate of the proposed conservatee.
- (7) The nature and location of the evidence.
- (8) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence.
- (9) The familiarity of the court of each state with the facts and issues in the proceeding.
- (10) If an appointment were made, the court's ability to monitor the conduct of the conservator.

1997. (a) If at any time a court of this state determines that it acquired jurisdiction to appoint a conservator because of unjustifiable conduct, the court may do any of the following:

- (1) Decline to exercise jurisdiction.
- (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the conservatee or proposed conservatee or the protection of the property of the conservatee or proposed conservatee or to prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a conservator of the person, conservator of the estate, or conservator of the person and estate is filed in a court of another state having jurisdiction.
- (3) Continue to exercise jurisdiction after considering all of the following:
  - (A) The extent to which the conservatee or proposed conservatee and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction.



(B) Whether it is a more appropriate forum than the court of any other state under the factors set forth in subdivision (c) of Section 1996.

(C) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of Section 1993.

(b) If a court of this state determines that it acquired jurisdiction to appoint a conservator because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, medical examination expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than this chapter.

1998. If a petition for the appointment of a conservator of the person, conservator of the estate, or conservator of the person and estate is brought in this state and this state was not the home state of the proposed conservatee on the date the petition was filed, in addition to complying with the notice requirements of this state, the petitioner shall give notice of the petition or of a hearing on the petition to those persons who would be entitled to notice of the petition or of a hearing on the petition if a proceeding were brought in the home state of the proposed conservatee. The notice shall be given in the same manner as notice is required to be given in this state.

1999. Except for a petition for the appointment of a conservator under paragraph (1) or paragraph (2) of subdivision (a) of Section 1994, if a petition for the appointment of a conservator is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(a) If the court in this state has jurisdiction under Section 1993, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to Section 1993 before the appointment.

(b) If the court in this state does not have jurisdiction under Section 1993, whether at the time the petition is filed or at any time before the appointment, the court shall stay the proceeding and communicate with the court in the other state. If the court in

the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

### Article 3. Transfer of Conservatorship

2001. (a) A conservator appointed in this state may petition the court to transfer the conservatorship to another state.

(b) The petitioner shall give notice of a hearing on a petition under subdivision (a) to the persons that would be entitled to notice of a hearing on a petition in this state for the appointment of a conservator.

(c) The court shall hold a hearing on a petition filed pursuant to subdivision (a).

(d) The court shall issue an order provisionally granting a petition to transfer a conservatorship of the person, and shall direct the conservator of the person to petition for acceptance of the conservatorship in the other state, if the court is satisfied that the conservatorship will be accepted by the court in the other state and the court finds all of the following:

(1) The conservatee is physically present in or is reasonably expected to move permanently to the other state.

(2) An objection to the transfer has not been made or, if an objection has been made, the court determines that the transfer would not be contrary to the interests of the conservatee.

(3) Plans for care and services for the conservatee in the other state are reasonable and sufficient.

(e) The court shall issue a provisional order granting a petition to transfer a conservatorship of the estate, and shall direct the conservator of the estate to petition for acceptance of the conservatorship in the other state, if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds all of the following:

(1) The conservatee is physically present in or is reasonably expected to move permanently to the other state, or the conservatee has a significant connection to the other state considering the factors in subdivision (b) of Section 1991.

(2) An objection to the transfer has not been made or, if an objection has been made, the court determines that the transfer would not be contrary to the interests of the conservatee.

(3) Adequate arrangements will be made for management of the conservatee's property.

(f) The court shall issue a provisional order granting a petition to transfer a conservatorship of the person and estate, and shall direct the conservator to petition for acceptance of the conservatorship in the other state, if the requirements of subdivision (d) and the requirements of subdivision (e) are both satisfied.

(g) The court shall issue a final order confirming the transfer and terminating the conservatorship upon its receipt of both of the following:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to Section 2002.

(2) The documents required to terminate a conservatorship in this state, including, but not limited to, any required accounting.

2002. (a) (1) To confirm transfer of a conservatorship transferred to this state under provisions similar to Section 2001, the conservator shall petition the court in this state to accept the conservatorship.

(2) The petition shall include a certified copy of the other state's provisional order of transfer.

(3) On the first page of the petition, the petitioner shall state that the conservatorship does not fall within the limitations of Section 1981. The body of the petition shall allege facts showing that this chapter applies and the requirements for transfer of the conservatorship are satisfied.

(4) The petition shall specify any modifications necessary to conform the conservatorship to the law of this state, and the terms of a proposed final order accepting the conservatorship.

(5) A petition for the appointment of a temporary conservator under Section 1994 and Chapter 3 (commencing with Section 2250) of Part 4 may be filed while a petition under this section is pending. The petition for the appointment of a temporary conservator shall request the appointment of a temporary conservator eligible for appointment in this state, and shall be limited to powers authorized for a temporary conservator in this state. For purposes of Chapter 3 (commencing with Section 2250) of Part 4, the court shall treat a petition under this section as the equivalent of a petition for a general conservatorship.

(b) The petitioner shall give notice of a hearing on a petition under subdivision (a) to those persons that would be entitled to notice if the petition were a petition for the appointment of a conservator in both the transferring state and this state. The petitioner shall also give notice to any attorney of record for the conservatee in the transferring state and to any attorney appointed or appearing for the conservatee in this state. The petitioner shall give the notice in the same manner that notice of a petition for the appointment of a conservator is required to be given in this state, except that notice to the conservatee shall be given by mailing the petition instead of by personal service of a citation.

(c) Any person entitled to notice under subdivision (b) may object to the petition on one or more of the following grounds:

(1) Transfer of the proceeding would be contrary to the interests of the conservatee.

(2) Under the law of the transferring state, the conservator is ineligible for appointment in this state.

(3) Under the law of this state, the conservator is ineligible for appointment in this state, and the transfer petition does not identify a replacement who is willing and eligible to serve in this state.

(4) This chapter is inapplicable under Section 1981.

(d) Promptly after the filing of a petition under subdivision (a), the court shall appoint an investigator under Section 1454. The investigator shall promptly commence a preliminary investigation of the conservatorship, which focuses on the matters described in subdivision (f).

(e) The court shall hold a hearing on a petition filed pursuant to subdivision (a).

(f) The court shall issue an order provisionally granting a petition filed under subdivision (a) unless any of the following occurs:

(1) The court determines that transfer of the proceeding would be contrary to the interests of the conservatee.

(2) The court determines that, under the law of the transferring state, the conservator is ineligible for appointment in this state.

(3) The court determines that, under the law of this state, the conservator is ineligible for appointment in this state, and the transfer petition does not identify a replacement who is willing and eligible to serve in this state.

(4) The court determines that this chapter is inapplicable under Section 1981.

(g) If the court issues an order provisionally granting the petition, the investigator shall promptly commence an investigation under Section 1851.1.

(h) (1) Not later than 60 days after issuance of an order provisionally granting the petition, the court shall determine whether the conservatorship needs to be modified to conform to the law of this state. The court may take any action necessary to achieve compliance with the law of this state, including, but not limited to, striking or modifying any conservator powers that are not permitted under the law of this state.

(2) At the same time that it makes the determination required by paragraph (1), the court shall review the conservatorship as provided in Section 1851.1.

(3) The conformity determination and the review required by this subdivision shall occur at a hearing, which shall be noticed as provided in subdivision (b).

(i) (1) The court shall issue a final order accepting the proceeding and appointing the conservator in this state upon completion of the conformity determination and review required by subdivision (h), or upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to Section 2001 transferring the proceeding to this state, whichever occurs later. In appointing a conservator under this paragraph, the court shall comply with Section 1830.

(2) A transfer to this state does not become effective unless and until the court issues a final order under paragraph (1). A conservator may not take action in this state pursuant to a transfer petition unless and until the transfer becomes effective and all of the following steps have occurred:

(A) The conservator has taken an oath in accordance with Section 2300.

(B) The conservator has filed the required bond, if any.

(C) The court has provided the information required by Section 1835 to the conservator.

(D) The conservator has filed an acknowledgment of receipt as required by Section 1834.

(E) The clerk of the court has issued the letters of conservatorship.

(3) Paragraph (2) does not preclude a person who has been appointed as a temporary conservator pursuant to Chapter 3

(commencing with Section 2250) from taking action in this state pursuant to the order establishing the temporary conservatorship.

(4) When a transfer to this state becomes effective, the conservatorship is subject to the law of this state and shall thereafter be treated as a conservatorship under the law of this state. If a law of this state, including, but not limited to, Section 2356.5, mandates compliance with special requirements to exercise a particular conservatorship power or take a particular step, the conservator of a transferred conservatorship may not exercise that power or take that step without first complying with those special requirements.

(j) Except as otherwise provided by Section 1851.1, Chapter 3 (commencing with Section 1860), Chapter 9 (commencing with Section 2650) of Part 4, and other law, when the court grants a petition under this section, the court shall recognize a conservatorship order from the other state, including the determination of the conservatee's incapacity and the appointment of the conservator.

(k) The denial by a court of this state of a petition to accept a conservatorship transferred from another state does not affect the ability of the conservator to seek appointment as conservator in this state under Chapter 1 (commencing with Section 1800) of Part 3 if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

2003. If a conservatorship is transferred under this article from a court of this state to the court of a California tribe or from the court of a California tribe to a court of this state, the order that provisionally grants the transfer may expressly provide that specified powers of the conservator will not be transferred. Jurisdiction over the specified powers will be retained by the transferring state and will not be included in the powers that are granted to the conservator in the state that accepts the transfer.

#### Article 4. Registration and Recognition of Orders from Other States

2011. If a conservator of the person has been appointed in another state and a petition for the appointment of a conservator of the person is not pending in this state, the conservator of the person appointed in the other state, after providing notice pursuant

to Section 2014, may register the conservatorship order in this state by filing certified copies of the order and letters of office, and proof of notice as required herein, together with a cover sheet approved by the Judicial Council, in the superior court of any appropriate county of this state.

2012. If a conservator of the estate has been appointed in another state and a petition for a conservatorship of the estate is not pending in this state, the conservator appointed in the other state, after providing notice pursuant to Section 2014, may register the conservatorship order in this state by filing certified copies of the order and letters of office and of any bond, and proof of notice as required herein, together with a cover sheet approved by the Judicial Council, in the superior court of any county of this state in which property belonging to the conservatee is located.

2013. If a conservator of the person and estate has been appointed in another state and a petition for a conservatorship of the person, conservatorship of the estate, or conservatorship of the person and estate is not pending in this state, the conservator appointed in the other state, after providing notice pursuant to Section 2014, may register the conservatorship order in this state by filing certified copies of the order and letters of office and of any bond, and proof of notice as required herein, together with a cover sheet approved by the Judicial Council, in the superior court of any appropriate county of this state.

2014. (a) At least 15 days before registering a conservatorship in this state, the conservator shall provide notice of an intent to register to all of the following:

- (1) The court supervising the conservatorship.
- (2) Every person who would be entitled to notice of a petition for the appointment of a conservator in the state where the conservatorship is being supervised.
- (3) Every person who would be entitled to notice of a petition for the appointment of a conservator in this state.

(b) Each notice provided pursuant to subdivision (a) shall comply with all of the following:

- (1) The notice shall prominently state that when a conservator acts pursuant to this article, the conservator is subject to the law of this state governing the action, including, but not limited to, all applicable procedures, and is not authorized to take any action prohibited by the law of this state.

(2) The notice shall explain that if a conservatorship is registered pursuant to this article, and the conservator later proposes to take a specific action pursuant to this article, which, under the law of this state, requires court approval or other action in court, the conservator will be required to notify the recipient of the request for court approval or other court action, and the recipient will have an opportunity to object or otherwise participate at that time, in the same manner as other persons are entitled to object or otherwise participate under the law of this state.

(3) The notice shall advise the recipient that information about a conservator's rights, duties, limitations, and responsibilities under the law of this state is available, free of charge, on an Internet Web site maintained by the Judicial Council. The notice shall explain specifically how to locate that information on the Judicial Council's Internet Web site.

(c) Except as provided in subdivision (c) of Section 2023, each notice provided pursuant to subdivision (a) shall also prominently state that the registration is effective only while the conservatee resides in another jurisdiction and does not authorize the conservator to take any action while the conservatee is residing in this state.

2015. Upon registration of a conservatorship pursuant to this article, the court shall provide the conservator with written information concerning a conservator's rights, duties, limitations, and responsibilities in this state, as specified in Section 1835. To cover the costs of providing that information, a court may charge the conservator the fee specified in Section 1835, which shall be distributed as specified in that section. The conservator shall file an acknowledgment of receipt of the written information, on a form prescribed by the Judicial Council.

2016. (a) Upon registration of a conservatorship order from another state and the filing by the conservator of an acknowledgment of receipt of the written information required by Section 2015, the conservator may, while the conservatee resides out of this state, exercise in any county of this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties. When acting pursuant to registration, the conservator is



subject to the law of this state governing the action, including, but not limited to, all applicable procedures, and is not authorized to take any action prohibited by the law of this state. If a law of this state, including, but not limited to, Section 2352, 2352.5, 2355, 2356.5, 2540, 2543, 2545, or 2591.5, or Article 2 (commencing with Section 1880) of Chapter 4 of Part 4, mandates compliance with special requirements to exercise a particular conservatorship power or take a particular step, the conservator of a registered conservatorship may not exercise that power or take that step without first complying with those special requirements.

(b) (1) When subdivision (a) requires a conservator to comply with a law of this state that makes it necessary to obtain court approval or take other action in court, the conservator shall seek that approval or proceed as needed in an appropriate court of this state. In handling the matter, that court shall communicate and cooperate with the court that is supervising the conservatorship, in accordance with Sections 1984 and 1985.

(2) In addition to providing any other notice required by law, the conservator shall provide notice of a court proceeding under paragraph (1) to all of the following:

(A) The court supervising the conservatorship.

(B) Every person who would be entitled to notice of a petition for the appointment of a conservator in the state where the conservatorship is being supervised.

(C) Every person who would be entitled to notice of a petition for the appointment of a conservator in this state.

(3) Any person entitled to notice under paragraph (2) may raise an objection or otherwise participate in the proceeding in the same manner as other persons are allowed to do under the law of this state.

(c) Subdivision (a) applies only when the conservatee resides out of this state. When the conservatee resides in this state, a conservator may not exercise any powers pursuant to a registration under this article.

(d) A court of this state may grant any relief available under this chapter and other law of this state to enforce a registered order.

2017. (a) A third person who acts in good faith reliance on a conservatorship order registered under this article is not liable to any person for so acting if all of the following requirements are satisfied:

(1) The conservator presents to the third person a file-stamped copy of the registration documents required by Section 2011, 2012, or 2013, including, but not limited to, the certified copy of the conservatorship order.

(2) Each of the registration documents, including, but not limited to, the conservatorship order and the file-stamped cover sheet, appears on its face to be valid.

(3) The conservator presents to the third person a form approved by the Judicial Council, in which the conservator attests that the conservatee does not reside in this state and the conservator promises to promptly notify the third person if the conservatee becomes a resident of this state. The form shall also prominently state that the registration is effective only while the conservatee resides in another jurisdiction and does not authorize the conservator to take any action while the conservatee is residing in this state.

(4) The third person has not received any actual notice that the conservatee is residing in this state.

(b) Nothing in this section is intended to create an implication that a third person is liable for acting in reliance on a conservatorship order registered under this article under circumstances where the requirements of subdivision (a) are not satisfied. Nothing in this section affects any immunity that may otherwise exist apart from this section.

2018. (a) A file-stamped copy of the registration documents required by Section 2011, 2012, or 2013 may be recorded in the office of any county recorder in this state.

(b) A county recorder may charge a reasonable fee for recordation under subdivision (a).

2019. Notwithstanding any other provision of this article:

(a) A conservatorship order of a court of a California tribe can be registered under Section 2011, 2012, or 2013, regardless of whether the conservatee resides in California.

(b) The effect of a conservatorship order of a court of a California tribe that is registered under Section 2011, 2012, or 2013 is not contingent on whether the conservatee resides in California.

(c) Paragraphs (3) and (4) of subdivision (a) of Section 2017 do not apply to a conservatorship order of a court of a California tribe.

Article 5. Miscellaneous Provisions

2021. In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it, consistent with the need to protect individual civil rights and in accordance with due process.

2022. This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (Title 15 (commencing with Section 7001) of the United States Code), but does not modify, limit, or supersede subdivision (c) of Section 101 of that act, which is codified as subdivision (c) of Section 7001 of Title 15 of the United States Code, or authorize electronic delivery of any of the notices described in subdivision (b) of Section 103 of that act, which is codified as subdivision (b) of Section 7003 of Title 15 of the United States Code.

2023. (a) On or before January 1, 2016, the Judicial Council shall develop court rules and forms as necessary for the implementation of this chapter.

(b) The materials developed pursuant to this section shall include, but not be limited to, all of the following:

(1) A cover sheet for registration of a conservatorship under Section 2011, 2012, or 2013. The cover sheet shall explain that a proceeding may not be registered under Section 2011, 2012, or 2013 if the proceeding relates to a minor. The cover sheet shall further explain that a proceeding in which a person is subjected to involuntary mental health care may not be registered under Section 2011, 2012, or 2013. The cover sheet shall require the conservator to initial each of these explanations. The cover sheet shall also prominently state that when a conservator acts pursuant to registration, the conservator is subject to the law of this state governing the action, including, but not limited to, all applicable procedures, and is not authorized to take any action prohibited by the law of this state. Except as provided in subdivision (c), the cover sheet shall also prominently state that the registration is effective only while the conservatee resides in another jurisdiction and does not authorize the conservator to take any action while the conservatee is residing in this state. Directly beneath these statements, the cover sheet shall include a signature box in which the conservator attests to these matters.

(2) The form required by paragraph (3) of subdivision (a) of Section 2017. If the Judicial Council deems it advisable, this form may be included in the civil cover sheet developed under paragraph (1).

(3) A form for providing notice of intent to register a proceeding under Section 2011, 2012, or 2013.

(4) A form for a conservator to acknowledge receipt of the written information required by Section 2015.

(c) The materials prepared pursuant to this section shall be consistent with Section 2019.

2024. (a) This chapter applies to conservatorship proceedings begun on or after January 1, 2016.

(b) Articles 1, 3, and 4 and Sections 2021 and 2022 apply to proceedings begun before January 1, 2016, regardless of whether a conservatorship order has been issued.

#### Article 6. Federally Recognized Indian Tribe

2031. For the purposes of this chapter:

(a) “California tribe” means an Indian tribe with jurisdiction that has tribal land located in California.

(b) “Indian tribe with jurisdiction” means a federally recognized Indian tribe that has a court system that exercises jurisdiction over proceedings that are substantially equivalent to conservatorship proceedings.

(c) “Tribal land” means land that is, with respect to a specific Indian tribe and the members of that tribe, “Indian country” as defined in Section 1151 of Title 18 of the United States Code.

2032. Article 2 (commencing with Section 1991) does not apply to a proposed conservatee who is a member of an Indian tribe with jurisdiction.

2033. (a) If a petition for the appointment of a conservator has been filed in a court of this state and a conservator has not yet been appointed, any person entitled to notice of a hearing on the petition may move to dismiss the petition on the grounds that the proposed conservatee is a member of an Indian tribe with jurisdiction. The petition shall state the name of the Indian tribe.

(b) If, after communicating with the named tribe, the court of this state finds that the proposed conservatee is a member of an Indian tribe with jurisdiction, it may grant the motion to dismiss

if it finds that there is good cause to do so. If the motion is granted, the court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a conservator be filed promptly in the tribal court.

(c) In determining whether there is good cause to grant the motion, the court may consider all relevant factors, including, but not limited to, the following:

- (1) Any expressed preference of the proposed conservatee.
- (2) Whether abuse, neglect, or exploitation of the proposed conservatee has occurred or is likely to occur and which state could best protect the proposed conservatee from the abuse, neglect, or exploitation.
- (3) The length of time the proposed conservatee was physically present in or was a legal resident of this or another state.
- (4) The location of the proposed conservatee's family, friends, and other persons required to be notified of the conservatorship proceeding.
- (5) The distance of the proposed conservatee from the court in each state.
- (6) The financial circumstances of the estate of the proposed conservatee.
- (7) The nature and location of the evidence.
- (8) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence.
- (9) The familiarity of the court of each state with the facts and issues in the proceeding.
- (10) If an appointment were made, the court's ability to monitor the conduct of the conservator.
- (11) The timing of the motion, taking into account the parties' and court's expenditure of time and resources.

(d) Notwithstanding subdivision (b), the court shall not grant a motion to dismiss pursuant to this section if the tribal court expressly declines to exercise its jurisdiction with regard to the proposed conservatee.

SEC. 21. Section 2107 of the Probate Code is amended to read:

2107. (a) Unless limited by court order, when a court of this state appoints a guardian or conservator of the person of a nonresident, the appointee has the same powers and duties as a guardian or conservator of the person of a resident while the nonresident is in this state.

(b) When a court of this state appoints a guardian or conservator of the estate of a nonresident, the appointee has, with respect to the property of the nonresident within this state, the same powers and duties as a guardian or conservator of the estate of a resident. The responsibility of such a guardian or conservator with regard to inventory, accounting, and disposal of the estate is confined to the property that comes into the hands of the guardian or conservator in this state.

SEC. 22. Section 2200 of the Probate Code is amended to read:

2200. (a) The superior court has jurisdiction of guardianship and conservatorship proceedings.

(b) Chapter 8 (commencing with Section 1980) of Part 3 governs which state has jurisdiction of a conservatorship proceeding.

SEC. 23. Section 2300 of the Probate Code is amended to read:

2300. Before the appointment of a guardian or conservator is effective, including, but not limited to, the appointment of a conservator under Section 2002, the guardian or conservator shall:

(a) Take an oath to perform the duties of the office according to law. The oath obligates the guardian or conservator to comply with the law of this state, as well as other applicable law, at all times, in any location within or without the state. If the conservator petitions for transfer of the conservatorship to another state pursuant to Section 2001, the conservator shall continue to comply with the law of this state until the court issues a final order confirming the transfer and terminating the conservatorship pursuant to Section 2001. The oath shall be attached to or endorsed upon the letters.

(b) File the required bond if a bond is required.

SEC. 24. Section 2352 of the Probate Code is amended to read:

2352. (a) The guardian may establish the residence of the ward at any place within this state without the permission of the court. The guardian shall select the least restrictive appropriate residence that is available and necessary to meet the needs of the ward, and that is in the best interests of the ward.

(b) The conservator may establish the residence of the conservatee at any place within this state without the permission of the court. The conservator shall select the least restrictive appropriate residence, as described in Section 2352.5, that is available and necessary to meet the needs of the conservatee, and that is in the best interests of the conservatee.

(c) If permission of the court is first obtained, a guardian or conservator may establish the residence of a ward or conservatee at a place not within this state. Notice of the hearing on the petition to establish the residence of the ward or conservatee out of state, together with a copy of the petition, shall be given in the manner required by subdivision (a) of Section 1460 to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822.

(d) (1) An order under subdivision (c) relating to a ward shall require the guardian either to return the ward to this state, or to cause a guardianship proceeding or its equivalent to be commenced in the place of the new residence, when the ward has resided in the place of new residence for a period of four months or a longer or shorter period specified in the order.

(2) An order under subdivision (c) relating to a conservatee shall require the conservator to do one of the following when the conservatee has resided in the other state for a period of four months or a longer or shorter period specified in the order:

(A) Return the conservatee to this state.

(B) Petition for transfer of the conservatorship to the other state under Article 3 (commencing with Section 2001) of Chapter 8 of Part 3 and corresponding law of the other state.

(C) Cause a conservatorship proceeding or its equivalent to be commenced in the other state.

(e) (1) The guardian or conservator shall file a notice of change of residence with the court within 30 days of the date of the change. The guardian or conservator shall include in the notice of change of residence a declaration stating that the ward's or conservatee's change of residence is consistent with the standard described in subdivision (b).

(2) The guardian or conservator shall mail a copy of the notice to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822 and shall file proof of service of the notice with the court. The court may, for good cause, waive the mailing requirement pursuant to this paragraph in order to prevent harm to the conservatee or ward.

(3) If the guardian or conservator proposes to remove the ward or conservatee from his or her personal residence, except as provided by subdivision (c), the guardian or conservator shall mail a notice of his or her intention to change the residence of the ward

or conservatee to all persons entitled to notice under subdivision (b) of Section 1511 and subdivision (b) of Section 1822. In the absence of an emergency, that notice shall be mailed at least 15 days before the proposed removal of the ward or conservatee from his or her personal residence. If the notice is served less than 15 days prior to the proposed removal of the ward or conservatee, the guardian or conservator shall set forth the basis for the emergency in the notice. The guardian or conservator shall file proof of service of that notice with the court.

(f) This section does not apply where the court has made an order under Section 2351 pursuant to which the conservatee retains the right to establish his or her own residence.

(g) As used in this section, “guardian” or “conservator” includes a proposed guardian or proposed conservator and “ward” or “conservatee” includes a proposed ward or proposed conservatee.

(h) This section does not apply to a person with developmental disabilities for whom the Director of Developmental Services or a regional center, established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code, acts as the conservator.

SEC. 25. Section 2505 of the Probate Code is amended to read:

2505. (a) Subject to subdivision (c), where the claim or matter is the subject of a pending action or proceeding, the court approval required by this article shall be obtained from the court in which the action or proceeding is pending.

(b) Where the claim or matter is not the subject of a pending action or proceeding, the court approval required by this article shall be obtained from one of the following:

(1) The court in which the guardianship or conservatorship proceeding is pending.

(2) The superior court of the county where the ward or conservatee or guardian or conservator resides at the time the petition for approval is filed.

(3) The superior court of any county where a suit on the claim or matter properly could be brought.

(c) Where the claim or matter is the subject of a pending action or proceeding that is not brought in a court of this state, court approval required by this article shall be obtained from either of the following:

(1) The court in which the action or proceeding is pending.



(2) The court in which the guardianship or conservatorship proceeding is pending.

(d) (1) Subdivisions (a), (b), and (c) do not apply to a conservatorship that is registered in this state pursuant to Article 4 (commencing with Section 2011) of Chapter 8 of Part 3.

(2) Except as provided in paragraph (3), when a conservatorship is registered in this state pursuant to Article 4 (commencing with Section 2011) of Chapter 8 of Part 3, the court approval required by this article shall be obtained in accordance with Section 2016.

(3) Notwithstanding Section 2016, when a conservatorship is registered in this state pursuant to Article 4 (commencing with Section 2011) of Chapter 8 of Part 3, and the claim or matter in question is the subject of a pending action or proceeding that is not brought in a court of this state, the court approval required by this article may be obtained from the court in which the action or proceeding is pending.

SEC. 26. Section 2650 of the Probate Code is amended to read:

2650. A guardian or conservator may be removed for any of the following causes:

(a) Failure to use ordinary care and diligence in the management of the estate.

(b) Failure to file an inventory or an account within the time allowed by law or by court order.

(c) Continued failure to perform duties or incapacity to perform duties suitably.

(d) Conviction of a felony, whether before or after appointment as guardian or conservator.

(e) Gross immorality.

(f) Having such an interest adverse to the faithful performance of duties that there is an unreasonable risk that the guardian or conservator will fail faithfully to perform duties.

(g) In the case of a guardian of the person or a conservator of the person, acting in violation of any provision of Section 2356.

(h) In the case of a guardian of the estate or a conservator of the estate, insolvency or bankruptcy of the guardian or conservator.

(i) In the case of a conservator appointed by a court in another jurisdiction, removal because that person would not have been appointed in this state despite being eligible to serve under the law of this state.

(j) In any other case in which the court in its discretion determines that removal is in the best interests of the ward or conservatee; but, in considering the best interests of the ward, if the guardian was nominated under Section 1500 or 1501, the court shall take that fact into consideration.

SEC. 27. Section 3800 of the Probate Code is amended to read:

3800. (a) If a nonresident has a duly appointed, qualified, and acting guardian, conservator, committee, or comparable fiduciary in the place of residence and if no proceeding for guardianship or conservatorship of the nonresident is pending or contemplated in this state, the nonresident fiduciary may petition to have property owned by the nonresident removed to the place of residence.

(b) The petition for removal of property of the nonresident shall be filed in the superior court of the county in which the nonresident is or has been temporarily present or in which the property of the nonresident, or the principal part thereof, is located.

(c) If a conservatorship was transferred from this state to another state pursuant to Article 3 (commencing with Section 2001) of Chapter 8 of Part 3, the foreign conservator may remove the conservatee's personal property from this state without seeking a petition under this chapter.

SEC. 28. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 29. (a) Section 2023 of the Probate Code, as added by this act, becomes operative on January 1, 2015.

(b) The remainder of this act becomes operative on January 1, 2016.











Approved \_\_\_\_\_, 2014

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*Governor*